

REMARKS

In the Office Action, claims 15,16 and 20 were rejected under the judicially created doctrine of obviousness-type double patenting; claims 15, 16 and 20 were rejected under 35 U.S.C. §112; and claims 15, 16 and 20 were rejected under 35 U.S.C. §103. Claim 1-20 have been cancelled. Claims 21-30 have been added. No new matter has been added thereby. A petition for a one-month extension of time is submitted herewith. Applicants are also submitting herewith a Terminal Disclaimer. A check in the amount of \$250.00 is submitted herewith to cover the cost of the one-month extension and the cost of the Terminal Disclaimer. Please charge Deposit Account No. 02-1818 for any insufficiency or credit for any overpayment. Applicant believes that the rejections are improper or have been overcome for at least the reasons below.

At the outset, the obviousness-type double patenting rejection and the rejection under 35 U.S.C. §103(a) of claims 15, 16 and 20 have been rendered moot in view of the cancellation of same. Moreover, Applicants are submitting herewith a Terminal Disclaimer as mentioned above. Applicants respectfully submit that new claims 21-30 are patentable over U.S. Patent No. 5,686,203 to Idota et al. ("*Idota*") for at least the reasons below.

New claim 21 recites, at least in part, a non-aqueous electrolyte secondary battery including a conductive agent wherein a weight ratio between flaky graphite and granulated carbon with respect to carbon black ranges from 98:2 to 70:30, wherein a weight ratio in the conductive agent of the flaky graphite with respect to the carbon black ranges from 49:2 to 35:30, and wherein the total conductive agent in each of said anode mix and said cathode mix ranges from 1.5% by weight to 10% by weight. Applicants submit that claim 21 is described in the specification in such a way as to fully enable one skilled in the art to make and/or use the invention. For example, Table 4 on page 49 of the specification lists experimental results showing the claimed weight ratios of flaky graphite, granulated carbon and carbon black, and Table 5 on page 63 of the specification 1 lists experimental results showing the claimed weight percentages of the conductive agent.

With regard to the obviousness rejection in view of *Idota*, Applicants submit that claim 21 is distinguishable from *Idota* for a number of reasons. First, *Idota* does not recognize weight ratios for mixtures with more than two carbon derivatives. In Table 4 of the present application,

Applicants have demonstrated unexpected results for the claimed conductive agent regarding the 2nd cycle capacity and the capacity maintenance ratio over *Idota*. Moreover, *Idota* does not appear to recognize a decrease in performance when the weight percentage of carbon black exceeds the weight percentage of flaky graphite. (See, *Idota*, col. 13, lines 44-46).

In addition, *Idota* does not teach or suggest wherein the total conductive agent in each of said anode mix and said cathode mix ranges from 1.5% by weight to 10% by weight, as indicated in the Examiner's statement of reasons for allowance in the parent application (U.S. Patent No. 6,686,094 to Omaru). More specifically, on page 3 of the Notice of Allowance dated September 4, 2003 in the parent *Omaru* application, it was indicated that *Idota* "does not teach that all three components of the instant claims contained in the weight percent (1.5-10 wt %)." Moreover, in Table 5 of the present application, Applicants have demonstrated unexpected results for the claimed conductive agent regarding the 2nd cycle capacity and the capacity maintenance ratio over *Idota*.

Accordingly, Applicant believe that claims 21-30 are patentable over *Idota* and in condition for allowance.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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